

In the Matter of Merchant Mariner's Document No. Z-935154-D1
Issued to: LOUIS E. ROMAN

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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LOUIS E. ROMAN

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 22 June, 1951, an Examiner of the United States Coast Guard at New York, N.Y., revoked Merchant Mariner's Document No. Z-935154-D1 issued to Louis E. Roman upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as able seaman on board the American SS AMERICA under authority of the document above described, on or about 1 June, 1951, while said vessel was at sea, he wrongfully made improper advances to a passenger, John Riccio.

Although Appellant had been given by the Investigating Officer on 11 June, 1951, a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing, and advised that the charge was very serious, Appellant failed to appear at the hour appointed for the hearing, nor did he communicate with the Investigating Officer to explain his nonappearance or request an adjournment to some other date.

Thereupon, the proceedings were commenced in absentia at 2 P.M. on 12 June, 1951, and the Investigating Officer testified respecting personal service of the charge and specification upon Appellant. The Examiner entered a plea of "not guilty" for Appellant, and the Investigating Officer then introduced in evidence the official log of the AMERICA containing entries bearing on the offense charged, and an extract from the shipping articles of the AMERICA showing Appellant's employment on board for the period covering the date of the alleged offense. The Investigating Officer then rested; and the Examiner adjourned the hearing without date to await some word of or from Appellant stating that if Appellant appeared at the office, he would reopen the case, and permit Appellant to present any defense available - in spite of his default by failing to appear at the time and place stated in the summons personally served upon him by the Investigating Officer.

On 21 June, 1951, the hearing was reconvened, and the Investigating Officer offered in evidence a post card dated at Baltimore, Maryland, on 17 June, 1951, signed by Appellant, advising that Appellant could not attend the hearing on 12 June, 1951, because he had "shipped out" at 12:00 noon, 11 June, 1951, ostensibly on the SS AFRICAN ENDEAVOR.

Again the Examiner adjourned the hearing after the Investigating Officer made a closing argument; and on 22 June, 1951, when the proceedings were resumed the Examiner announced his findings and concluded that the charge had been proved by proof of the specification and entered the order revoking Appellant's Merchant Mariner's Document No. Z-935154-D1 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged:

1. The complaint against him was exaggerated as the boy's original report was passed from person to person; his conduct on the occasion was entirely innocent of any wrongful intention, and was normal under the circumstances;
2. His failure to attend the hearing was due to the fact that he made a pier head jump to the service of the AFRICAN ENDEAVOR;
3. Revocation of his document deprives him of his only means of livelihood.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 1 June, 1951, Appellant was serving as able seaman on board the American SS AMERICA and acting under authority of his Merchant Mariner's Document No. Z-935154-D1.

At sometime before 1400 on that date, while the vessel was at sea, Appellant met 7 year old John Riccio, a passenger, on the enclosed promenade deck, and made an indecent proposal to the boy, who became frightened and ran away - later reporting the incident to his mother. The matter was then reported to the Master; and on the same day Appellant was confronted and identified by the boy as the person who had accosted him.

OPINION

I am not favorably impressed by any point raised on this appeal. These proceedings are established pursuant to laws enacted by Congress. They are intended, and designed, to discover the true facts concerning any incident which, upon first investigation, indicates grounds for charging a merchant seaman with misconduct, etc. When those facts are revealed to the Examiner innocent persons will be fully protected and guilty persons will be appropriately disciplined.

Appellant's acceptance of employment on another vessel on 11 June in the face of the summons personally served upon him to be present at the hearing on 12 June, not only flaunted the authority of the Coast Guard but tended to obstruct its performance of the statutory duty to inquire into such matters. Whether the boy's story was true, exaggerated or entirely false could have been determined by the Examiner, by the testimony of other witnesses, if necessary, on 12 or 22 June,

1951, if Appellant had obeyed the summons given him. The details now presented by Appellant could, and should, have been presented to the Examiner, who has been specially appointed for that purpose. Appellant deliberately chose to evade that determination; and at this late date (when witnesses probably are not immediately available to testify), cannot be heard to complain of the treatment accorded him by the Coast Guard.

On the record before me, the evidence introduced by the Investigating Officer on 12 June, 1951, stands unquestioned and unexplained - although Appellant had full power and opportunity to have both questioned the log entry and explained his conduct. Thus, that evidence is adequate to support the Examiner's action.

CONCLUSION

I find no reason to disturb the Examiner's action in this case.

ORDER

The Order of the Coast Guard Examiner dated at New York, N.Y., on 22 June, 1951, is **AFFIRMED**.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 20th day of November, 1951.